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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

FREECYCLESUNNYVALE,  
a California unincorporated association,

Plaintiff,

v.

THE FREECYCLE NETWORK,  
an Arizona corporation,

Defendant.

THE FREECYCLE NETWORK, INC., an  
Arizona Corporation,

Counterclaimant,

v.

FREECYCLESUNNYVALE, a California  
unincorporated association,

Counterdefendant.

CASE NO. C06-00324 CW

**STIPULATED REQUEST FOR ORDER  
CHANGING TIME UNDER CIVIL L.R. 6-2**

Before: Honorable Claudia Wilken

1 PURSUANT TO CIVIL L.R. 6-2, Plaintiff FreecycleSunnyvale and Defendant The  
2 Freecycle Network, Inc., respectfully request this Court to enter an order changing time.

3 **I. INTRODUCTION**

4 The above-captioned lawsuit concerns The Freecycle Network's claim of trademark rights  
5 over the term "freecycle," the phrase "The Freecycle Network," and a stylized logo depicting the  
6 term "freecycle." FreecycleSunnyvale seeks a declaration of non-infringement or, in the  
7 alternative, that the alleged trademarks are generic or that The Freecycle Network has engaged in  
8 naked licensing. The Freecycle Network filed counterclaims, alleging trademark infringement,  
9 contributory infringement, and unfair competition under the Lanham Act, as well as California  
10 state-law claims for unfair competition. Counsel for both parties appear *pro bono*. This Court's  
11 Case Management Order presently sets the fact discovery cutoff for May 2, 2006. *See* Order  
12 (December 22, 2006; Document # 62). For the following reasons, FreecycleSunnyvale and The  
13 Freecycle Network respectfully request a ninety (90) day extension of the fact discovery cutoff  
14 and all other deadlines in the Case Management Order.

15 **II. REASONS FOR THE REQUESTED ENLARGEMENT OF TIME**

16 First, the parties believe that additional time to conduct discovery is necessary in this case.  
17 In an effort to amicably resolve discovery disputes, the parties have met and conferred on several  
18 occasions, most recently on December 18, 2006. Many matters have been resolved amicably, and  
19 the parties will supplement their discovery. In addition, third party discovery is ongoing. Much  
20 of the additional discovery that will be forthcoming is preliminary to selecting deponents and  
21 scheduling depositions.

22 Second, the parties continue to focus their efforts in an attempt to resolve their differences  
23 through mediation. Previously, in this Court, the parties participated in court-connected  
24 mediation on June 13, 2006, but were unable to settle the lawsuit or narrow the issues. A related  
25 case, which is on appeal to the Ninth Circuit, was selected for inclusion in the Ninth Circuit's  
26 mediation program. That mediation started in January 2007, with the latest conference on March  
27 28, 2007. The parties are attempting to reach a global settlement that will include the action  
28 before this Court.

Third, assuming that fact discovery will be extended, the other deadlines in this Court's Case Management Order should be similarly extended by ninety (90) days.

### III. DISCLOSURE OF PREVIOUS TIME MODIFICATIONS

The parties have previously sought orders modifying time in this case. On June 2, 2006, this Court entered an order extending time to complete court-connected mediation in the Northern District of California. *See* Order (June 2, 2006; Document # 35). On three subsequent occasions, this Court entered orders extending the fact discovery cutoff and related deadlines. *See* Order (August 1, 2006; Document #44); Order (October 3, 2006; Document #57); Order (December 22, 2006; Document # 62).

### IV. EFFECT OF THE TIME MODIFICATION ON THE SCHEDULE OF THE CASE

The parties attach a proposed order that revises this Court's Case Management Order by extending the fact discovery cutoff and all other deadlines by approximately ninety (90) days. The following table summarizes the proposed changes to the Case Management Order and to the schedule of the case.

Deadlines	Current Cutoff	Proposed Cutoff
Completion of Fact Discovery:	05/02/07	08/03/07
Disclosure of identities and reports of expert witnesses:	06/01/07	09/04/07
Completion of Expert Discovery:	06/29/07	10/01/07
Plaintiff to file dispositive motion(s) and notice for hearing on 11/29/07 at 2:00 p.m.:	06/29/07	10/11/07
Defendant's opposition and any cross motion (contained in one brief):	07/13/07	10/25/07
Plaintiff's reply/opposition:	07/20/07	11/01/07
Surreply:	07/27/07	11/08/07

Deadlines	Current Cutoff	Proposed Cutoff
Further Case Management Conference at 2:00 p.m. and all case-dispositive motions to be heard on or before:	08/10/07	12/04/07
Final Pretrial Conference at 1:30 p.m. on:	[to be set]	[to be set]
A Trial will begin at 8:30 a.m. on:	[to be set]	[to be set]

The parties' proposed order will not affect the ADR process in this Court. On June 13, 2006, the parties engaged in court-connected mediation, which was conducted by William N. Herbert, Esquire. That mediation was unsuccessful in settling the lawsuit or narrowing the issues to be litigated. The parties' proposed order will facilitate the ADR process in a related case before the Ninth Circuit, which may settle the lawsuit or narrow the issues to be litigated.

**V. CONCLUSION**

For the foregoing reasons, the parties respectfully request an order changing time that grants an approximately ninety (90) day extension of the fact discovery cutoff and all other deadlines in the Case Management Order.

Dated: March 29, 2007

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*Filer's Attestation: Pursuant to General Order No. 45, Section X(B), the filer hereby attests that the signatories' concurrence in the filing of this document has been obtained.*